

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

ANDREW N. YAO,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

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CRIMINAL ACTION NO. 07-301

CIVIL ACTION NO. 10-3145

ORDER

AND NOW, this _____ day of October, 2011, upon consideration of Petitioner's Motion to Vacate, Set Aside, Correct Sentence (Doc. 89), Respondent's Motion to Dismiss 2255 Petition for Failure to State a Claim Upon Which Relief Can Be Granted Due to Untimeliness Under the AEDPA (Doc. 91), Petitioner's Response in Opposition to the Motion to Dismiss (Doc. 94); Respondent's Reply to the Response (Doc. 95), and Petitioner's Sur-reply to Respondent's Reply (Doc. 97), **IT IS HEREBY ORDERED AND DECREED** that Respondent's Motion to Dismiss is **GRANTED** and Petitioner's Motion to Vacate, Set Aside, Correct Sentence is **DISMISSED WITH PREJUDICE**.

IT IS FURTHER ORDERED that the Clerk of Court shall mark this case as **CLOSED** for statistical purposes.

BY THE COURT:

/s/ Petrese B. Tucker

Hon. Petrese B. Tucker, U.S.D.J.